IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 13004 of 2004

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Between:

G.Kiranami D/o.G.V.Kali Kumar
R/o.Visakhapatnam.

..... PETITIONER

AND

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1 The State of Andhra Pradesh rep. by its Principal

Secretary to the Government, Medical Health and

Family Welfare Department, Secretariat, Hyderabad.
2 The State of Andhra Pradesh rep. by its Secretary

Employment and Social Welfare Department
Secretariat, Hyderabad.
3 The N.T.R University of Health Sciences Rep. by its

Registrar, Vijayawada.
4 The Mandal Revenue Officer Visakhapatnam Urban,

Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of a writ, of mandamus by; a) Declaring that the petitioner is member belonging to Scheduled Caste-B category candidate and accordingly consider my case for admission into First Year MBBS Course for the Academic Year 2004-2005. b) Direct the respondents to consider the case of the petitioner for admission into First Year MBBS Course by duly treating as a member belonging to Scheduled Caste-B Category candidate for the academic year 2004-2005 as the counselling is scheduled to be held on 23.7.2004 or any other subsequent date and pass.

Counsel for the Petitioner: MR.ABHINAND KUMAR SHAVILI

Counsel for Respondents 1,2 & 4: GP FOR MEDICAL & HEALTH

& SOCIAL WELFARE

Counsel for Respondent No.3: Smt. Y. Padmavathi, SC.

The Court at the admission stage made the following :

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Medical & Health and Social Welfare and Smt. Y. Padmavathi, learned counsel for NTR University. Both have expressed no objection for disposal of the writ petition at the

admission stage.

The petitioner appeared for EAMCET 2004 examination conducted by the NTR University seeking admission into medical courses and secured a rank of 007154. She claimed admission under BC-D quota. During the course of counselling she made a representation stating that her candidature may be considered under SC-B category as per the certificate issued by the Mandal Revenue Officer dated 15-7-2004, which was issued in the light of guidelines issued in G.O.Ms.No.371 dated 13-4-1976. As the petitioner's candidature was not considered under SC-B category, she filed the present writ petition.

The petitioner contended that her mother, who is a member belonging to SC-B group, married a person belonging to BC-D group. The petitioner being the offspring of an inter-caste marriage, she is entitled to claim the benefit of her mother's caste. The Mandal Revenue Officer after conducting necessary enquiry issued caste certificate specifying the petitioner's caste as SC-B category. In view of the same, the petitioner seeks to consider her caste under the reservation category of SC-B.

NTR University filed counter affidavit stating that the petitioner made her application seeking admission into Medical courses under BC-D category. During the counseling the petitioner submitted a representation dated 17-7-2004 enclosing a copy of G.O.Ms.No.371, dated 13-4-1976 and a copy of the community certificate dated 15-7-2004 issued by Mandal Revenue Officer, Visakhapatnam, stating that the petitioner belongs to SC-B in terms of G.O.Ms.No.371, dated 13-4-1976. The matter was referred to the officers of Social Welfare Department, who in turn informed that clarification from higher authorities is required. As per the directions issued by the Medical Council of India (MCI) to Registrars of all universities imparting medical education, the first round of counselling except 5% seats were kept in abeyance as per G.O.Ms.No.33 dated 12-7-2004, for all categories has already been completed on 25-8-2004. In the second round of counseling only the resultant vacancies can be filled as per MCI directions. Hence the petitioner cannot claim admission under SC-B category.

Sri Nuti Ramamohan Rao, learned counsel for the petitioner vehemently argued that the benefit conferred under G.O.Ms.No.371 is only to encourage inter-caste marriages and the petitioner has a right to be entitled to claim the caste of her mother for which the Mandal Revenue Officer conducted an enquiry and issued a certificate,

certifying that the petitioner belongs to SC-B category. Denying the admission to the petitioner under SC-B category will amounts to denying the benefit extended in G.O.Ms.No.371, dated 13-4-1976 to the petitioner. Merely because the petitioner applied under BC-D category, she will not be prevented from claiming the benefit, which she is entitled to. Learned counsel relied upon the judgment of this court in **W.S.V. Satyanarayana V. Director of Tribal Welfare, A.P. Hyderabad** .

On the other hand learned Government Pleader for Social Welfare contends that the Mandal Revenue Officer, who issued the caste certificate, has not followed the procedure contemplated the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Rules, 1997 (for short 'the Rules) for issuing the caste certificate. He further contends that since from the birth the petitioner never claimed that she belongs to SC-B category. Only during the course of counseling she submitted her caste certificate under SC-B category and claimed admission under the same. In view of the same, she cannot claim any benefit as held by this court in **A. Prathyusha V. N.T.R. University of Health Sciences**.

Learned Standing Counsel for the NTR University submits that as per regulations issued by the MCI and Rules framed under G.O.Ms.No.184 dated 30-6-2004, namely, the Andhra Pradesh Un-aided Non-Minority Professional Institutions (Regulations of Admissions into Under Graduate Medical and Dental Professional Courses) Rules 2004, govern the admission into medical courses.

Sub Rule (x) of Rule 6 reads as under:

> " Candidates are considered for selection only for such categories for which they have claimed reservation in the application form and submitted supporting documents. Request for a change to any other category after submission of application shall not be considered."

It is not in dispute that the petitioner applied reservation only under BC-D category and appeared for EAMCET examination and secured a rank. But she never claimed reservation under SC-B category through out her career till the date of counseling. Sub Rule (x) of Rule 6 of the Rules framed under G.O.Ms.184 dated 30-6-2004 admission of candidates into MBBS and BDS courses clearly envisages that the candidates are considered for selection only for such categories for which they have claimed reservation in the application form and submitted supporting documents. Request for a change to any other category after submission of

application shall not be considered.

Be that as it may, this court in *Prathyusha's case (2 supra)* while considering the identical case held as under:

> The inquiry alleged to have been conducted by MRI-I, Kurnool, based on which the proceedings of the MRO were issued, is not in accordance with the procedure of inquiry mandated by the Hon'ble Supreme Court in *Kum. Madhurik Patil V. Addl. Commissioner Tribal Development and others (1996) 4 SCC 241)* and *Director of Tribal Welfare, Government of A.P. V. Laveti Giri and another (1995) 4 SCC 32*). In *Madhuri Patil's* case, the Apex Court indicated the streamlined procedure for issuance of a social status certificate, its scrutiny and approval. Fifteen guidelines deal with the method of issuance of community certificate. After receiving the application for community certificate, the Revenue Divisional Officer, shall have to initiate an enquiry for the purpose of verification. All the State Governments were directed by the Supreme Court to constitute a committee of three officers, namely, (1) Additional/Joint Secretary of the Department concerned, (2) Director of Social Welfare/Tribal Welfare/Backward Class Welfare as the case may be, and (3) in the case of Scheduled Caste, another officer who has intimate knowledge in the verification and issuance of social status certificate. The proceedings of the Mandal Revenue Officer and the certificate issued by him were presumably brought into existence in great haste without following the procedure as indicated by the Supreme Court and without following the procedure enumerated in A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 and the Rules framed thereunder and accordingly the candidate cannot claim any benefit out of the certificate issued by the Mandal Revenue Officer, which was issued without following the due procedure.

There cannot be any quarrel to the proposition laid down by the Division Bench of this court on which much emphasis has been laid by the petitioner that he is entitled to be considered under SC-B category.

Rule 5 of the A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Rules 1997, deals with the procedure for verification of such application, which reads as under:

> According to this Rule, on receipt of the application, the Competent Authority or any officer authorized by him in this regard shall ensure that the applicant has furnished complete information in all the columns of Form I/II and, shall then give the acknowledgment slip as appended to Form I/II, in token of having received the application. The Competent Authority shall then verify the information/documents/ evidence furnished by the applicant/parent/guardian in Form I/II. If the Competent Authority is satisfied with the correctness of the information/documents/ evidence furnished by the applicant, he shall issue Community, Nativity and Date of Birth Certificates in Form-III within 30 days of the receipt of the application in Form I/II. The Competent Authority shall specify in Form III the sub-caste of the SC claimant and the sub-tribe/sub-group of the ST claimant assisted out in Annexure-I appended to these Rules.
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> The Competent Authority shall requisition the services of Mandal Revenue

Inspector, Village Development Officer, Village Administrative Officer or such other persons as deemed necessary, to assist him in the enquiry to verify the veracity or otherwise of the community claims made by the applicant after following due process of law.

The file produced by the learned Government Pleader discloses that the petitioner has not furnished the necessary information as per the Rules in Form-II except the particulars of the candidate, which enables the competent authority to satisfy with the correctness of the information/documents/evidence furnished by the applicant for issuing the certificate nor Mandal Revenue Officer given acknowledgement on the appendix of Form-II in token of furnishing the said information and the certificate was also not issued in Form-III as envisaged under the Rules. In view of the same, the petitioner cannot claim any benefit out of the said certificate to claim admission under SC-B category.

Accordingly, the Writ Petition is dismissed at the admission stage. This order will not preclude the petitioner for obtaining necessary certificate claiming any future admissions, if any, under the SC-B category.

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A. Gopal Reddy, J.

22nd September, 2004.

Js.

ASSISTANT REGISTRAR

To

1 The Principal Secretary to the Government, State of

Andhra Pradesh, Medical Health and Family Welfare

Department, Secretariat, Hyderabad.

2 The Secretary, State of Andhra Pradesh,

Employment and Social Welfare Department
Secretariat, Hyderabad.

3 The Registrar, N.T.R University of Health Sciences,

Vijayawada.

4 The Mandal Revenue Officer Visakhapatnam Urban,

Visakhapatnam.

5 2 CCs to G.P. for Medical Health & Family Welfare and Social

Welfare, High Court Buildings, Hyderabad.

6 2 CD copies.